

Claims 1-11, 19-21 and 23 were rejected under 35 U.S.C. 103(a) as unpatentable over U.S. Patent No. 5,674,762 to See et al. ("See") in view of U.S. Patent No. 6,194,269 to Sung et al. ("Sung"). The rejection is respectfully traversed.

To establish a prima facie case of obviousness, the following criteria should be met. First, there should be a suggestion or motivation in the art to modify the reference or to combine reference teachings. Second, there should be a reasonable expectation of success. Third, the reference(s) must teach all the claim limitations. MPEP section 706.02(j). Applicant respectfully submits that the Examiner's citations to the art are insufficient to establish the criteria above and accordingly, the rejection should be withdrawn.

In describing Sung, the Examiner stated that Sung discloses forming a split-gate non-volatile memory device, citing Fig. 1. The Examiner then made a conclusory statement that "in view of this disclosure, it would have been obvious . . . ." However, it appears that no portion of the art was cited to evidence a motivation or suggestion for the proposed combination of references. In addition, it appears that the Examiner provided no citation to show a reasonable expectation of success for the proposed combination. That a split-gate transistor structure in general may be known in the art does not necessarily establish obviousness for its use in a particular structure such as recited in claim 1, for example. Accordingly, applicant respectfully submits that the Examiner has not established a prima facie case of obviousness and rejection of claim 1 and its dependent claims 2-11 should be withdrawn. The rejection of independent claim 19 and its dependent claims 19-21 and 23 is deficient in a manner similar to that described above for claim 1 and should be withdrawn for the same reasons as for claim 1.

Claims 1-23 were rejected under 35 U.S.C. 103(a) as unpatentable over U.S. Patent No. 5,153,143 to Schlais et al. ("Schlais") in view of U.S. Patent No. 4,651,406 to Shimizu ("Shimizu"). The rejection is respectfully traversed.

Applicant respectfully submits that the Examiner's citations to the art are insufficient to establish the criteria above to establish a prima facie case of obviousness and accordingly, the rejection should be withdrawn. Applicant respectfully submits that the Examiner cited no portion of Schlais describing the operation of the transistors 40 and 32 of Schlais at different operating voltage levels. In addition, the Examiner, when describing Shimizu, stated that "in view of this disclosure, it would have been obvious . . . ." However, no portion of the art (either Schlais or

Shimizu) was cited to evidence a motivation or suggestion for the proposed combination of references. That Shimizu discloses a high voltage transistor does not, alone, establish that one of ordinary skill in the art would decide to incorporate the Shimizu high voltage transistor into the structure of Schlais as suggested by the Examiner. For example, the Examiner cited no portion of the art to support the Examiner's contention (at page 4 of the Office Action) that the combination of Schlais with Shimizu is necessary "for withstanding of the high voltage required during memory device programming and provide additional protection for the memory based structure." To the contrary, Schlais (for example, at col. 10, lines 24-38), appears to describe how its integrated circuit 10 is designed to operate at lower programming voltages. Accordingly, applicant respectfully requests that the Examiner has not established a prima facie case of obviousness and the rejection of claims 1-23 should be withdrawn.

New claims 24-29 have been added. Support for the new claims may be found throughout the specification and drawings and in the original claims. It is believed that no new matter has been entered. Examination of the new claims is respectfully requested.

Applicant respectfully submits that claims 1-29 are in condition for allowance. Reexamination and reconsideration are respectfully requested. If, for any reason, the application is not in condition for allowance, the Examiner requested to telephone the undersigned to discuss the steps necessary to place the application into condition for allowance.

Respectfully submitted,

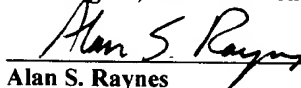
  
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Alan S. Raynes

May 8, 2002  
(Date)